

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CHARLES PARSLEY,

Petitioner,

ORDER LIFTING STAY

-against-

19 Civ. 4756 (VB)(PED)

J. LAMANNA,

Respondent.

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On November 11, 2019, this Court stayed this action on the basis of petitioner's representation that his pending *coram nobis* petition presented one of petitioner's *habeas* claims to the state courts. [Dkt. 14.] On October 13, 2020, petitioner – without addressing the ongoing stay – moved to amend his petition to add a claim related to a staged video re-enactment in which petitioner claims he was required to participate. [Dkt. 17.] Notably, petitioner's motion to amend does not indicate whether or how the video re-enactment claim was presented to any state court.

On January 8, 2021, respondent moved to lift the stay on the ground that the *coram nobis* petition which was the basis for the stay had been denied by all relevant state courts. [Dkt. 18.] On February 3, 2021, petitioner requested that the Court maintain the stay on the basis of a pending petition pursuant to § 440.20, N.Y. Crim. P. L. [Dkt. 19.] On February 17, 2020, respondent filed a response, observing that petitioner's § 440.20 petition raised a discrete sentencing issue which, although undecided, "is of no relevance to the instant habeas petition." [Dkt. 20.] Petitioner filed a brief reply taking issue with respondent's description of the sentencing issue. [Dkt. 21.]

On this record, the Court agrees that petitioner's sentencing-related § 440.20 petition is

not a basis for a further stay of this *habeas* action. Accordingly, the stay is **LIFTED**. Respondent is directed to reply to petitioner's outstanding motion to amend [Dkt. 17] no later than **May 28, 2021**; respondent's submission should address whether petitioner has presented his video re-enactment claim in any state forum. Any reply from petitioner is due by **June 28, 2021**.

The Clerk shall terminate the motion at Dkt. 18, and mail a copy of this Order to petitioner at the address appearing on the docket.

Dated: April 28, 2021
White Plains, New York

SO ORDERED



PAUL E. DAVISON, U.S.M.J.